

HOUSE BILL 1092
By DeBerry L

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6, relative to domestic abuse death review council.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-3-601, is amended by adding the following appropriately designated items:

() "Commissioner" means the commissioner of the department of human services.

() "Council" means the domestic abuse death review council established in section 2 of this act.

() "Department" means the department of human services.

() "Domestic abuse death" means a homicide or suicide that involves or is a result of domestic abuse as defined in item (3) of this section.

SECTION 2. Tennessee Code Annotated, Section 36-3-624, is amended by deleting that section in its entirety and substituting instead the following:

(a) The department shall establish a domestic abuse death review council. The council shall assist local agencies in reviewing domestic abuse deaths, including homicides and suicides, and facilitate communication among the various agencies

involved in domestic abuse cases. The department shall promulgate rules relating to the administration of the domestic abuse death review council created by this act. Such rules shall be promulgated in accordance with the provisions of title 4, chapter 5.

(b) For purposes of this section, "domestic abuse" has the meaning set forth in section 36-3-601.

(c) The council shall develop a protocol that may be used as a guideline to assist coroners and other persons who perform autopsies on domestic abuse victims in the identification of domestic abuse, in the determination of whether domestic abuse contributed to the death or whether domestic abuse had occurred prior to the death, but was not the actual cause of death, and in the proper written reporting procedures for domestic abuse, including the designation of the cause and mode of death.

(d) The council shall be comprised of:

- (1) The chief medical examiner or the chief medical examiner's designee;
- (2) A licensed physician who is knowledgeable concerning domestic abuse injuries and deaths, including suicides;
- (3) A licensed mental health professional who is knowledgeable concerning domestic abuse;
- (4) A representative from the Tennessee Coalition Against Domestic and Sexual Violence;
- (5) A law enforcement official who is knowledgeable concerning domestic abuse;
- (6) A law enforcement investigator experienced in domestic abuse investigation;
- (7) An attorney experienced in prosecuting domestic abuse cases;
- (8) An employee of the state of Tennessee who is a trained batterers' education program facilitator;

(9) An attorney licensed in this state who provides criminal defense or domestic relations and child custody representation, and who has experience in dissolution of marriage proceedings;

(10) A female victim of domestic abuse;

(11) A male victim of domestic abuse; and

(12) A family member of a decedent whose death resulted from domestic abuse.

(e) The following people shall each designate a liaison to assist the council in fulfilling the council's duties:

(1) The office of the attorney general;

(2) The commissioner of corrections;

(3) The commissioner of health;

(4) The commissioner of human services;

(5) The state registrar of the office of vital records of the department of health;

(6) The commissioner of education;

(7) The administrative director of the courts; and

(8) The chairman of the Tennessee human rights commission.

(f)

(1) The commissioner, in consultation with the state attorney general, shall appoint council members who are not designated by another appointing authority.

(2) A vacancy on the council shall be filled in the same manner as the original appointment.

(3) Council terms shall be three-year staggered terms. Of the twelve (12) council members, (1) through (4) shall initially serve shall serve three-year terms

beginning September 1, 2003; members (5) through (8) shall initially serve two-year terms beginning September 1, 2003; and members (9) through (12) shall initially serve a one-year term beginning on September 1, 2003. Thereafter, members shall serve terms of three (3) years. Members shall be eligible for reappointment.

(4) Each member of the council is entitled to reimbursement for travel and other necessary expenses incurred in the performance of the member's official duties in conformity with comprehensive travel regulations as promulgated by the department of finance and administration.

(g) Council members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a council member or agent, provided that the council members or agents acted reasonably and in good faith and without malice in carrying out their official duties in their official capacity. A complainant bears the burden of proof in establishing malice or unreasonableness or lack of good faith in an action brought against council members involving the performance of their duties and powers.

(h) An oral or written communication or a document shared within or produced by the domestic abuse death review council related to a domestic abuse death is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to the domestic abuse death review council is confidential and not subject to disclosure or discoverable by a third party. Notwithstanding the foregoing, recommendations of the domestic abuse death review council upon the completion of a review may be disclosed at the discretion of a majority of the members of such council.

(i) To complete a review of a confirmed domestic abuse death, the domestic abuse death council shall have access to, and subpoena power to obtain, all records of any nature maintained by any public or private entity that may pertain to a death being investigated by the council including, but not limited to, police investigations and reports, medical examiner investigative data and reports and social service agency records, as well as medical records maintained by a private health care provider or a health care agency. Any entity or individual providing such information to the council shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed for such action.

(j) The council shall perform the following duties:

(1) Prepare an annual report for the governor, the supreme court of this state, attorney general, and the general assembly concerning the following subjects:

(A) The causes and manner of domestic abuse deaths, including an analysis of factual information obtained through review of death certificates and domestic abuse death data, and other pertinent public information concerning domestic abuse deaths;

(B) The contributing factors of domestic abuse deaths; and

(C) Recommendations regarding the prevention of future domestic abuse deaths, including actions to be taken by communities based on an analysis of these contributing factors;

(2) Advise and consult the agencies represented on the council and other state agencies regarding program and regulatory changes that may prevent domestic abuse deaths; and

(3) Develop protocols for domestic abuse death investigations and council review.

(k) In performing duties pursuant to subsection (j), the council shall review the relationship between the decedent victim and the perpetrator from the point where the abuse began, until the domestic abuse death occurred, and shall review all relevant documents pertaining to the relationship between the parties, including but not limited to protective orders and dissolution, custody, and support agreements and related court records, in order to ascertain whether a correlation exists between certain events in the relationship and any escalation of abuse, and whether patterns can be established regarding such events in relation to domestic abuse deaths in general. The review council shall consider such conclusions in making recommendations pursuant to this act.

(l) The council shall annually elect a chairperson and other officers as deemed necessary by the council.

(m) The council shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by a majority of the council.

(n) The council may establish committees or panels to whom the council may assign some or all of the council's responsibilities.

(o) Members of the council who are currently practicing attorneys or current employees of the judicial branch of state government shall not participate in the following:

(1) An investigation by the council that involves a case in which the council member is presently involved in the member's professional capacity;

(2) Development of protocols by the council for domestic abuse death investigations and council review; and

(3) Development of regulatory changes related to domestic abuse deaths.

SECTION 3. This act shall take effect on September 1, 2003, the public welfare requiring it.